

United States Senate

WASHINGTON, DC 20510-4606

June 27, 2017

Ms. Laura K. Vaught
Office of Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3426 ARN
Washington, DC 20460

Dear Ms. Vaught,

I have recently been contacted by my constituent, Joachim Janka, concerning the Environmental Protection Agency (EPA).

You will find the inquiry details in the enclosed documents. If you require additional information from Mr. Janka in order to properly review the case, please let me know.

Please give this request every consideration and provide my office with a timely response. Any correspondence should be addressed to:

The Honorable Mark R. Warner
Attention: Shane Clem
180 W. Main Street, Room 235
Abingdon, Virginia 24210
P: 276-628-8158, F: 276-628-1036
Email: Shane_Clem@warner.senate.gov

Thank you for your attention to this matter.

Sincerely,



MARK R. WARNER
United States Senator

MRW/sc

THE HONORABLE MARK R. WARNER



PRIVACY ACT RELEASE

I am aware that the Privacy Act of 1974 prohibits the release of information regarding my case without my express written approval. Therefore, I authorize the following agency or agencies to release information regarding my concerns to the office of Senator Mark R. Warner (VA). *Please note, if the appropriate government agency or department is not included, NO action can be made on this case.*

Environmental Protection Agency
Name of government agency or department

Please read and follow all directions carefully. If you are inquiring on behalf of someone, that person must sign this release of consent. Please note, NO action can be made without an original signature. Provide the following information for Senator Warner's office to move forward on your case: The following is personal information that I am providing to Senator Warner's office to help in resolving my case.

4100 Chestnut Ave Newport News VA 23602
Street Address City State Zip code

757-928-8211
Home Phone Number

Cell Phone Number (opt in)

Joseph.Janka@jebhcnr.com
Email Address (opt in)

Joseph Janka 6/19/17
Mr./Ms./Mrs./Dr. Printed Name Date
(circle one)

[Signature]
Signature
(non-digital)

If I wish Senator Warner's office to provide any information on this matter to another person such as parent, child or attorney, I have indicated those names here:

Walter Mcigel

THE HONORABLE MARK R. WARNER
PRIVACY ACT RELEASE

Please complete the section(s) that apply to your case

Active Military or Veteran's Administration

SS# _____ Serial# _____

Social Security, Medicare, Medicaid or ACA

SS# _____ Date of Birth _____

Office of Personnel Management (OPM)

SS# _____ CSA# _____ Date of Birth _____

USCIS, State Department or Visa

(Please do not provide your social security number in any correspondence)

Alien# _____ Receipt# _____ Date of Birth _____

Passport Application

SS# _____ Application# _____ Date of Birth _____

Department of Education

SS# _____ Account# _____ Date of Birth _____

IRS or Labor Department

SS# _____ EIN# _____ OWCP# _____

Other

(Please specify)

Department or Agency Liebherr Mining Equipment CO.

Identifying Number# EP Agency
(account, case, claim, etc.)

LIEBHERR

Liebherr Mining Equipment Newport News Co.

The Hon. Mark Warner
703 Hart Senate Office Building
Washington DC 20510

**Liebherr Mining Equipment
Newport News Co.**

4100 Chestnut Avenue
Newport News, VA, 23807, USA
Phone: +1 (757) 245 5251
Fax: +1 (757) 928 8755

Ref.: Endanger Virginia Jobs

June 1, 2017

Dear Sir,

We are a Virginia manufacturer of large off-road mining trucks and have been employing Virginians since 1970. We are proud to be one of the top exporters from Virginia. We seek your urgent and valued assistance in resolving a situation which has created a potentially ruinous financial hardship with a resulting endangerment to jobs at our operation here in Virginia.

BACKGROUND:

Our gigantic mining trucks use large 20 cylinder industrial diesel engines which we purchase from MTU. We purchased four (4) of these engines back in 2012 when the Global Mining Market was strong and these engines were certified to an Environmental Protection Agency (EPA) Tier 1 certification level at that time. The trucks for these particular engines were destined for an export sale which did not materialize (due to the total collapse of the world mining market at that time) and the costly engines have been in our inventory since.

We now have an opportunity to build and export trucks with these specific engines to Canada which would be critical to a multi-million dollar export transaction. We can provide these engines to the Canadian truck sale only if we use "Flexibility" rules – requiring that these engines have an EPA certificate which allows the engines to be calibrated from a non-certified rating to a cleaner, Tier 2 certified rating. The particular 20V4000C23 engine in question is unique in that it is possible to change the calibration in the engine from the "Fuel Consumption Optimized" configuration with the re-export labels to an "EPA Tier 2 compliant" configuration with a simple calibration and label change. This puts the engine in a more environmentally-friendly configuration. There are no hardware changes required to make this happen the engines would then have their labels replaced with "Flexibility" Labels. Only with this re-certification and new labelling can we be allowed to export these particular engines in our trucks to Canada. We have arranged for the manufacturer to calibrate the engines as needed but need to have EPA authority to do so.

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We recently petitioned the EPA to allow these engines to be re-calibrated and labelled appropriately so that we can make this critical export sale. All re-calibration by the original engine manufacturer will follow all regulations. The EPA has essentially dismissed our petition in this matter.

The Engine Serial Numbers affected are 528102602, 528102604, 528102609 and 528102617.

FINANCIAL IMPACT:

The current export sale of these mining trucks is contingent on the delivery of ten (10) trucks, of which four (4) would rely on having the re-calibrated (converted) engines. There is extreme urgency in this matter as there is no possible way that we can obtain four (4) replacement engines in time to meet the delivery agreement – so, without the re-calibration of these four (4) engines – our complete export order collapses. Without such sale (and use of the re-calibrated engines), our company would suffer a catastrophic \$60 million loss in lost sales revenue due to the very high value of the mining trucks. This would jeopardize jobs at our facility in Newport News, Virginia and the even the future of our ability to manufacture in Virginia, create jobs and be a net exporter. If we do not have the EPA approval of the re-certification very quickly, our export sale is lost forever with devastating financial loss to our firm.

AID SOUGHT:

We respectfully entreat you to look into this urgent situation and see if you can engage the EPA to re-address this matter in light of the calamitous financial loss which will definitely endanger Virginia manufacturing jobs.

If you have any questions, please advise. We can provide greater detail as to our engagement with the EPA officials.

We look forward to your assistance in this dire matter and thank you in advance for any assistance you may give.

Respectfully requested,



Jo Janka
President

Liebherr Mining & Construction Newport News Co.

Janka Joachim (MIN-LME)

Subject: FW: Diesel Fueled Equipment (Over 560 kW) Delivery In 2018

Jo Janka

Liebherr Mining Equipment Newport News Co.

Tel. +1 (757) 928 2221

Mobile +1 (757) 342 7801

From: Gumbs, Jason [<mailto:Gumbs.Jason@epa.gov>]
Sent: Thursday, May 25, 2017 12:43 PM
To: Bennett Mark, EIIM MTU America Inc.
Cc: Duncan, Allen; Healy, Stephen; Stout, Alan
Subject: RE: Diesel Fueled Equipment (Over 560 kW) Delivery In 2018

Mark,

I have already articulated my position on this issue. I'll include the respective individuals in my management chain. I can always be overruled. My current immediate supervisor is Allen Duncan.

From: Bennett Mark, EIIM MTU America Inc. [<mailto:Mark.Bennett@mtu-online.com>]
Sent: Thursday, May 25, 2017 12:34 PM
To: Gumbs, Jason <Gumbs.Jason@epa.gov>
Subject: FW: Diesel Fueled Equipment (Over 560 kW) Delivery In 2018

Hello Mr. Gumbs,

I have not heard from you regarding the note that I sent to you, but I have heard from Canada and they will allow the engines to be imported with conditions outlined below. I am appealing to you one more time because our internal processes are simplified when we have approval from the EPA for emission upgrades.

Please give me the courtesy of a reply, and I will proceed according to your instructions. Please feel free to call me if you would like to discuss this topic.

Thank you again for your consideration.

Kind regards,

Mark

Mark Bennett
Sr. Manager, Global Mining Accounts
MTU America Inc.

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Novi, MI 48377
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MTU Mining - Ready for Tier 4

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